

1 **AVAILABILITY OF PUBLIC INFORMATION AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Deidre M. Henderson**

5 House Sponsor: Craig Hall

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to the availability of public information.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ moves the Utah Transparency Advisory Board from the Division of Finance to the
13 Department of Administrative Services;

14 ▶ modifies the board's membership;

15 ▶ expands the duties of the board to include responsibility for developing
16 recommendations concerning making public information more accessible through a
17 website;

18 ▶ provides principles to guide the board in fulfilling its new duties;

19 ▶ directs the Department of Administrative Services to implement board
20 recommendations if certain conditions are met; and

21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63A-3-403**, as last amended by Laws of Utah 2010, Chapter 286

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **63A-3-403** is amended to read:

32 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**

33 **Duties.**

34 (1) There is created within the [~~division~~] department the Utah Transparency Advisory
35 Board comprised of members knowledgeable about public finance or providing public access
36 to public [~~financial~~] information [~~as follows:~~].

37 (2) The board consists of:

38 (a) [~~one member designated~~] an individual appointed by the director of the Division of
39 Finance;

40 (b) [~~one member designated~~] an individual appointed by the director of the Governor's
41 Office of Planning and Budget;

42 [~~(c) one member appointed by the governor on advice from the Judicial Council, who~~
43 ~~shall serve until June 30, 2009;~~]

44 [~~(d) one member~~]

45 (c) an individual appointed by the governor on advice from the Legislative Fiscal
46 Analyst;

47 [~~(e)~~] (d) one member of the Senate, appointed by the governor on advice from the
48 president of the Senate;

49 [~~(f)~~] (e) one member of the House of Representatives, appointed by the governor on
50 advice from the speaker of the House of Representatives;

51 [~~(g) one member designated~~]

52 (f) an individual appointed by the director of the Department of Technology Services;

53 [~~(h) one member appointed by the governor from a state institution of higher education;~~
54 ~~who shall serve for one year beginning on July 1, 2009 and ending on June 30, 2010; and]~~

55 [~~(i) three additional members appointed by the governor, who shall each serve one-year~~
56 ~~terms as follows:~~]

57 [~~(i) for the term beginning on July 1, 2009 and ending on June 30, 2010, represent the~~

58 following entities:]
59 ~~[(A) a school district;]~~
60 ~~[(B) a charter school; and]~~
61 ~~[(C) a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit~~
62 ~~District Act; and]~~
63 ~~[(ii) for the term beginning on July 1, 2010 and ending on June 30, 2011, represent the~~
64 ~~following entities:]~~
65 ~~[(A) a county;]~~
66 ~~[(B) a municipality; and]~~
67 ~~[(C) (i) a local district under Title 17B, Limited Purpose Local Government Entities=~~
68 ~~Local Districts, that is not a public transit district created under Title 17B, Chapter 2a, Part 8;~~
69 ~~Public Transit District Act; or]~~
70 ~~[(H) a special service district under Title 17D, Chapter 1, Special Service District Act.]~~
71 (g) the director of the Division of Archives created in Section 63A-12-101 or the
72 director's designee;
73 (h) an individual who is a member of the State Records Committee created in Section
74 63G-2-501, appointed by the governor;
75 (i) an individual representing counties, appointed by the governor;
76 (j) an individual representing municipalities, appointed by the governor; and
77 (k) two individuals who are members of the public and who have knowledge,
78 expertise, or experience in matters relating to the board's duties under Subsection (10),
79 appointed by the board members identified in Subsections (2)(a) through (j).
80 ~~[(2)] (3) The board shall:~~
81 (a) advise the division on matters related to the implementation and administration of
82 this part;
83 (b) develop plans, make recommendations, and assist in implementing the provisions
84 of this part;
85 (c) determine what public financial information shall be provided by participating state

86 and local entities, ~~[provided that]~~ if the public financial information:

87 (i) only includes records that:

88 (A) are classified as public under Title 63G, Chapter 2, Government Records Access
89 and Management Act;

90 (B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or
91 revenues, regardless of the source; and

92 (C) are owned, held, or administered by the participating state or local entity that is
93 required to provide the record; and

94 (ii) is of the type or nature that should be accessible to the public via a website based
95 on considerations of:

96 (A) the cost effectiveness of providing the information;

97 (B) the value of providing the information to the public; and

98 (C) privacy and security considerations;

99 (d) evaluate the cost effectiveness of implementing specific information resources and
100 features on the website;

101 (e) establish size or budget thresholds to identify those local entities that qualify as
102 participating local entities as defined in this part, giving special consideration to the budget and
103 resource limitations of an entity with a current annual budget of less than \$10,000,000;

104 (f) require participating local entities to provide public financial information in
105 accordance with the requirements of this part, with a specified content, reporting frequency,
106 and form;

107 (g) require a participating local entity's website to be accessible by link or other direct
108 route from the Utah Public Finance Website if the participating local entity does not use the
109 Utah Public Finance Website; and

110 (h) determine the search methods and the search criteria that shall be made available to
111 the public as part of a website used by a participating local entity under the requirements of this
112 part, which criteria may include:

113 (i) fiscal year;

- 114 (ii) expenditure type;
- 115 (iii) name of the agency;
- 116 (iv) payee;
- 117 (v) date; and
- 118 (vi) amount.

119 ~~[(3)]~~ (4) The board shall annually elect a chair and a vice chair from its members.

120 ~~[(4)]~~ (5) (a) ~~[Except for a member appointed under Subsections (1)(c) and (h), each]~~
121 Each member shall serve a two-year term.

122 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
123 appointed for the remainder of the unexpired term.

124 ~~[(5) The board shall meet as it determines necessary to accomplish its duties.]~~

125 (6) To accomplish its duties, the board:

- 126 (a) may meet as many as eight times during 2013; and
- 127 (b) shall, after 2013, meet as it determines necessary.

128 ~~[(6)]~~ (7) Reasonable notice shall be given to each member of the board before any
129 meeting.

130 ~~[(7)]~~ (8) A majority of the board constitutes a quorum for the transaction of business.

131 ~~[(8)]~~ (9) A member may not receive compensation or benefits for the member's service,
132 but may receive per diem and travel expenses in accordance with:

- 133 (a) Section 63A-3-106;
- 134 (b) Section 63A-3-107; and
- 135 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
136 63A-3-107.

137 (10) (a) As used in this Subsection (10):

138 (i) "Information website" means a single Internet website containing public information
139 or links to public information.

140 (ii) "Public information" means records of state or local government that are classified
141 as public under Title 63G, Chapter 2, Government Records Access and Management Act.

142 (b) The board shall:

143 (i) study the establishment of an information website and develop recommendations for
144 its establishment;

145 (ii) develop recommendations about how to make public information more readily
146 available to the public through the information website;

147 (iii) develop standards to make uniform the format and accessibility of public
148 information posted to the information website; and

149 (iv) no later than November 30, 2013, report the board's recommendations and
150 standards developed under Subsections (10)(b)(i) through (iii) to the executive director and the
151 Legislative Management Committee.

152 (c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by
153 principles that encourage:

154 (i) (A) the establishment of a standardized format of public information that makes the
155 information more easily accessible by the public;

156 (B) the removal of restrictions on the reuse of public information;

157 (C) minimizing limitations on the disclosure of public information while appropriately
158 safeguarding sensitive information; and

159 (D) balancing factors in favor of excluding public information from an information
160 website against the public interest in having the information accessible on an information
161 website;

162 (ii) (A) permanent, lasting, open access to public information; and

163 (B) the publication of bulk public information;

164 (iii) the implementation of well-designed public information systems that ensure data
165 quality, create a public, comprehensive list or index of public information, and define a process
166 for continuous publication of and updates to public information;

167 (iv) the identification of public information not currently made available online and the
168 implementation of a process, including a timeline and benchmarks, for making that public
169 information available online; and

170 (v) accountability on the part of those who create, maintain, manage, or store public
171 information or post it to an information website.

172 (d) The department shall implement the board's recommendations, including the
173 establishment of an information website, to the extent that implementation:

174 (i) is approved by the Legislative Management Committee;

175 (ii) does not require further legislative appropriation; and

176 (iii) is within the department's existing statutory authority.